

PERSONNEL POLICY BOARD

April 7, 2005

MEETING

Meeting was held Thursday, April 7, 2005, Commissioners Hearing Room, County-City Building, Lincoln, Nebraska.

Members present: Jim Haszard, Sue Dedick, Bob Evnen, Doug McDaniel, Helen Griffin.
Member absent: Ed Bryson. Personnel Department resource staff attending: Karen Eurich.

The meeting was opened at 1:30 p.m. by Chair Doug McDaniel.

Chair Doug McDaniel asked for approval of the minutes from the December 2, 2004 meeting. Bob Evnen asked for a correction of the minutes by removing the word "hearing" in the second paragraph of Agenda Item 1, sentence beginning "After the testimony of all witnesses, it was moved by Bob Evnen and seconded by Jim Haszard to deny the appeal hearing". Following discussion, approval of the minutes was unanimously carried.

Agenda Item 1 was the request to create the classification 4956 Facilities Manager, C26. John Cripe of the Personnel Department explained the request for the creation of this classification was made by the Building Commission. The current plant operations managers for the County have different buildings they are responsible for. One of the employees is responsible for a larger number of buildings. Therefore, the request was made by the department to create a new position with a higher pay range. If approved, an existing County employee will be reallocated into this position. Following discussion, it was moved by Jim Haszard and seconded by Bob Evnen to approve the class as presented. Motion unanimously carried.

Agenda Item 2 was the request for appeal hearing from Betty Akin, County Attorney's Office. Chair Doug McDaniel read into the record a request by Betty Akin to withdraw her appeal.

Agenda Item 3 was miscellaneous discussion. Board member Bob Evnen distributed a proposed resolution to the Board members outlining an opinion request to the County Attorney to amend the County Rules in order to give the Board the right to modify discipline appealed to the Personnel Board. This proposal is a result of discussions during the December 2004 Board meeting appeal hearing. The resolution set forth a request to the County Attorney to draft an amendment to the Rules to allow the Board the authority to modify discipline or advise the Board whether it already has this authority. Following discussion, it was moved by Bob Evnen and seconded by Helen Griffin to approve the resolution. Tom Fox of the County Attorney's office addressed the Board regarding the proposed resolution and indicated the County Attorney's office serves as attorney to the County Board and departments of the County and because the Personnel Policy Board serves as an advisory body he did not feel that the Personnel Policy Board could request an opinion from the County Attorney. He also stated that he did not believe the Board has the right to change the Rules or to modify discipline imposed upon employees on appeal. Don Taute of the Personnel Department also addressed the Board regarding the proposed resolution. Following discussion, it was moved by Helen Griffin and seconded by Sue Dedick to amend the language of the proposed resolution to direct the secretary of the Board to request an

PERSONNEL POLICY BOARD

April 7, 2005

MEETING

Page 2

opinion from the County Attorney's office in regards to each bullet point, A, B, C, and D, outlined in the proposed resolution. Motion unanimously carried. Chair Doug McDaniel then called for a vote to adopt the amended motion to direct the Secretary of the Board to request an opinion of the County Attorney's office. Motion unanimously carried.

There being no further business, the meeting adjourned at 2:00 p.m.

The next regular scheduled meeting is tentatively set for Thursday, May 5, 2005.

Karen Eurich
Personnel Operations Specialist

pc: Betty Akin

KE3387D

LANCASTER COUNTY PERSONNEL POLICY BOARD
APRIL 7, 2005
PROPOSED RESOLUTION

RESOLVED:

- A. The Lancaster County Attorney ("County Attorney") is requested to prepare a memorandum setting forth amendments to the County Personnel Rules ("Rules") and to any other applicable statutes, rules and regulations, if any amendments are necessary, such that the Lancaster County Personnel Policy Board ("Board") shall have the authority to modify the discipline imposed in those matters brought to the Board for disposition pursuant to Rule 12 of the Rules. In the event that the County Attorney concludes that no amendments are necessary and that the Board possesses such authority under currently applicable statutes, rules and regulations, the memorandum shall so state.
- B In the same memorandum, the County Attorney is requested to set forth, with citations, the procedure required for the consideration and adoption of such an amendment to the Rules. It is the intention of the Board to obtain timely comments from interested parties with respect to any such proposed amendment to the Rules.
- C. In the event that the County Attorney's compliance with this Resolution, in the opinion of the County Attorney, would itself violate any law or regulation, the County Attorney is requested to so advise the Board in writing.
- D. The County Attorney is requested to provide to the Board his memorandum in response to this Resolution within thirty (30) days of the adoption of the Resolution.



Lincoln-Lancaster County
Personnel Department
Don W. Taute, Director

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MAYOR COLEEN J. SENG

lincoln.ne.gov

April 14, 2005

Gary Lacey
Lancaster County Attorney
Hall of Justice and Law Enforcement Center
575 S. 10th St.
Lincoln, NE 68508

RE: Request for Opinion/Authority of County Personnel Policy Board

Dear Gary:

At the meeting of the Personnel Policy Board of April 7, 2005 a motion was passed directing me, as the Secretary to the Personnel Policy Board and the Personnel Officer for the County, to request of your office a legal opinion on the subject of whether the Personnel Policy Board has the authority to modify the discipline imposed by a department head when the matter is appealed to the Board.

I was instructed in the Board's motion to request that the County Attorney provide the following in the response:

1. Proposed language for an amendment to the County Personnel Rules and to any other applicable statutes, rules and regulations, if any such amendments are necessary, such that the Lancaster County Personnel Policy Board shall have the authority to modify the discipline imposed in those matters brought to the Board for disposition pursuant to Rule 12 of the Rules. In the event that your office concludes that no amendments are necessary and that the Board possesses such authority under currently applicable statutes, rules and regulations, I would ask for that to be set forth in the legal opinion;
2. To set forth with appropriate citations, the procedure required for the consideration and adoption of such an amendment to the Rules. It is the intention of the Personnel Policy Board to obtain timely comments from interested parties with respect to any such proposed amendment to the Rules should a proposed amendment be forthcoming;
3. Whether, in your office's opinion, compliance with this request would itself violate any law or regulation, it is requested that the Board be so advised in your written opinion response; and

Letter to Gary Lacey, Lancaster County Attorney

April 14, 2005

RE: Request for Opinion/Authority of County Personnel Policy Board

Page 2

4. To provide the direction requested herein within 30 days the date of the receipt of this request.

Thank you in advance for consideration of this request and I will look forward to your office's opinion regarding the elements set forth above. Should you have any additional questions regarding this request, please don't hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don W. Taute". The signature is fluid and cursive, with a large initial "D" and "T".

Don W. Taute,
Lancaster County Personnel Officer

cc: ☒ Personnel Policy Board
Karen Eurich

PERSONNEL POLICY BOARD

December 2, 2004

MEETING

Meeting was held Thursday, December 2, 2004, Commissioners Hearing Room, County-City Building, Lincoln, Nebraska.

Members present: Bob Evnen, Ed Bryson, Doug McDaniel, Jim Haszard. Members absent: Sue Dedick, Helen Griffin. Personnel Department resource staff attending: Karen Eurich.

The meeting was opened at 1:35 p.m. by Chair Doug McDaniel.

It was moved by Bob Evnen and seconded by Jim Haszard to approve the minutes of the October 7, 2004 meeting. Motion unanimously carried.

Agenda Item 1 was the request for appeal hearing from Christine Downing, Corrections Department. Tom Fox represented the County. Gary Young of Keating, O’Gara, Davis and Nedved represented Christine Downing. The proceedings were recorded by Marcy Konzak of J.S. Wurm and Associates and are on file in that office. Eighteen exhibits were offered and accepted by the Board. Witnesses called: Deion Christophe, Don Brandt, Diane Rohrbough, Jane Voboril, Stephanie Pester, Virginia Prey, Michael Thurber, Christine Downing. In opening statements Gary Young distributed case law regarding “good cause” and asked that the Board not follow County Rule 4.8 (f) as it violates the State law and contradicts the F.O.P. labor contract by eliminating impartiality and “good cause” in reviewing disciplinary matters. He further asked the Board to make a specific ruling on his request. Chair Doug McDaniel denied Mr. Young’s request to not follow the County Rules. Following further discussion, Board member Bob Evnen suggested Gary Young submit information in writing to the Board regarding his objections to Rule 4.8 for their future review. Gary Young again asked that the Board not follow County Rule 4.8(f) and asked for a ruling from the Board. It was moved by Bob Evnen and seconded by Jim Haszard to overrule Mr. Young’s request to set aside Rule 4.8(f). Motion unanimously carried by roll call vote.

Tom Fox of the County Attorney’s Office asked the Board to sequester all witnesses for the length of the hearing. Chair Doug McDaniel granted this request. Board member Bob Evnen gave instructions to witnesses to not discuss the issue before or after their testimony with each other. After the testimony of all witnesses, it was moved by Bob Evnen and seconded by Jim Haszard to deny the appeal. Discussion then took place regarding the authority of the Board to modify the discipline given. Tom Fox of the County Attorney’s office said the Board could not modify the action, they could only uphold or deny the action. Gary Young’s opinion to the Board was that they could modify the discipline given to the employee if they so wished. The Board asked Don Taute, Personnel Director, his opinion and he indicated he thought that the Board could modify the discipline given. Given the fact that not all parties agreed on the matter, the Board decided they did not have the authority to modify any discipline given without changes to the County Rules. Following discussion, voting no: Bob Evnen, Ed Bryson, Doug McDaniel,

PERSONNEL POLICY BOARD
December 2, 2004
MEETING
Page 2

Jim Haszard. Motion failed. Following further discussion, it was moved by Jim Haszard and seconded by Ed Bryson to uphold the appeal and reverse the discipline imposed on the employee. Voting yes: Ed Bryson, Doug McDaniel, Jim Haszard. Voting no: Bob Evnen.

Agenda Item 2 was miscellaneous discussion. Karen Eurich of the Personnel Department informed the Board that all Personnel Board agendas, attachments and minutes will now be posted on the Personnel Department's website, and many hard copies would be eliminated from being sent out to internal employees and union presidents and attorneys. Karen Eurich informed the Board that they would continue to receive their hard copy packets as they always have in the past and just wanted to pass along this information to the Board. After discussion, the Board members present agreed to have their information sent to them online, as they would receive the information faster as long as they would be e-mailed the link to the Personnel website when the agenda was posted. Karen Eurich collected everyone's e-mail address and will provide the information for future meetings in this manner.

There being no further business, the meeting adjourned at 5:00 p.m.

The next regular scheduled meeting is tentatively set for Thursday, January 6, 2005.

Karen Eurich
Personnel Operations Specialist

pc: Christine Downing